



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/746,947 | 12/21/2000 | Marc S. Lemchen | P946 | 2376 |
| 23386 | 7590 | 03/09/2006 | EXAMINER | |
| MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD., SUITE 1150 IRVINE, CA 92612 | | | ZHONG, CHAD | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2152 | |

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/746,947 | LEMCHEN, MARC S. | |
| | Examiner | Art Unit | |
| | Chad Zhong | 2152 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-23 are presented for examination. All claims are analyzed and rejected in light of specification as originally filed. All claims are rejected. The rejections cited are as stated below.

Claim Analysis

2. Claims 1 and 13 are independent claims, directed to a method and system for reducing stress comprising of a computer for generating stress reduction personalized to the user. The system senses user's stress, by a sensor of sensors and feedback the sensed signal to the computer. The computer then adjusts the relax schedule of relax program. Despite the fact that, the instant specification directed to using biofeedback sensor to sense stress signal, i.e., heartbeat, muscle stress, or the like, from users, for adjusting schedule of stress reduction program, e.g., meditation, relaxation, etc. However, applicant should realize that, in addition to breadth of the claims is broad to read on several exercise equipment, the claims language, apparently, vague and missing some elements that amounts the gap in the claim. For instance, claiming, the computer connected to network, the computer executing exercise program, the computer receiving biofeedback from a sensor that sense body stress from the user. The claims, however, does not require, in any way, what to do with biofeedback signal. Thus, in light of specification, the claims read on many conventional exercise equipments, which has readily included such inventive concept, e.g., using biofeedback signal to adjust exercise program, as seen in several well known treadmills equipment, e.g., Nordic track, Pro form.

Claim Rejections - 35 USC § 102

Art Unit: 2143

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-24 are rejected under 35 U.S.C. 102(a) as being anticipated by Douglas et al (US. 6,039,688).

5. Regarding claims 1-24, as aforementioned analysis above, Douglas teaches a method, apparatus and computer program (collectively referred to as “system”, hereinafter) for promoting wellness and improving health, which employing therapeutic behavior monitoring and feedback techniques. The system capable of, among other thing, providing stress management to an appropriate group of users (Col. 5, lines 52-60), by using so called “virtual coach” (Col. 5, line 60-Col. 6, line 67). The virtual coach is a computer couple to a network for downloading or capable of downloading any type or program from remote computer, which resides at physicians or health care locations (Col. 6, lines 14-26). Users’ information can be entered to the computer; the system generates a therapeutic program including goals relating to an exercise level or stress management, by correlating user information (Col. 7, lines 15- 37). The system is capable of provide modified behavior schedule, using personal journal or e-mail. The system changes the schedule based on information, which either input manually by the user or automatically input by sensing devices attached to the user’s body and connected to the computer in the system, e.g.,

Art Unit: 2143

biofeedback (Col. 7, line 54-Col. 8, 5); Col. 8, line 50-Col.9, line 57; Col. 15, line 64-Col. 16, line 25; Col. 18, lines 39-54).

6. Claims 1-4, 10-14 and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Heikkila et al (US. 6,428,476).

7. Regarding claims 1-4, 10-14 and 22-24, as aforementioned analysis above, Heikkila teaches an exercise system, i.e., stress reduction system, comprising a computer coupled to a network (Fig. 5). The computer is capable of generating personalized exercise program from each individual exerciser. The computer is capable of receiving stress signal input from the exerciser (Col. 9, lines 9-43). The computer is capable of communicating over the Internet (Col. 9, lines 44-54). The exerciser received exercise program from his or her instruction, inferred that the computer is capable or generating and transmitting an exercise program the user (Col. 7, lines 43-46).

8. By the above analysis and rationale, claims 1-24 are rejected.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fisslinger discloses another application of using biofeedback signal, i.e., interactive system capable of measuring psychological variable of a user. Despite the fact that the claimed inventions might have been applied to slightly different application, but Flisslinger's teaching contained all elements required for rejecting the inventions as claimed. Applicant is suggested to consider the Fisslinger reference, along with the applied arts, to file an amendment, in which, perhaps could expedite the prosecutions.

Art Unit: 2143

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (703) 305-9673. The examiner can normally be reached on 8:00-17:00.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bunjob Jaroenchonwanit
Primary Examiner
Art Unit 2143

/bj
10/1/04